

IC 20-45-6

Chapter 6. Emergency Relief; Excessive Tax Levies

IC 20-45-6-1

Conditions; excessive tax levy

Sec. 1. A school corporation may impose an excessive tax levy or obtain other emergency relief from the maximum permissible tuition support property tax limitations imposed by IC 20-45-3 only if:

- (1) the school corporation requests the excessive tax levy or other emergency relief in an appeal to the department of local government under IC 6-1.1-19;
- (2) this chapter authorizes the emergency relief; and
- (3) the department of local government finance approves the excessive tax levy or other emergency relief.

As added by P.L.2-2006, SEC.168.

IC 20-45-6-2

Recommendation; tax control board

Sec. 2. (a) This section applies with respect to every appeal petition of a school corporation that:

- (1) is delivered to the tax control board by the department of local government finance under IC 6-1.1-19-4.1; and
- (2) includes a request for emergency financial relief.

(b) This section does not apply to an appeal petition described in section 5 or 6 of this chapter.

(c) The tax control board shall, after studying the appeal petition and related materials, make an appropriate recommendation to the department of local government finance.

(d) If the appeal petition requests a referendum under IC 20-46-1, the tax control board shall expedite the tax control board's review as necessary to permit the referendum to be conducted without a special election.

(e) In respect to the appeal petition, the tax control board may make to the department of local government finance any of the recommendations described in IC 20-45-5-3, subject to the limitations described in IC 20-45-5-6.

(f) In addition to a recommendation under subsection (c) or (e), if the tax control board concludes that the appellant school corporation cannot, in a calendar year, carry out the public educational duty committed to the appellant school corporation by law if the appellant school corporation does not receive emergency financial relief for the calendar year, the tax control board may recommend to the department of local government finance that:

- (1) the order of the county board of tax adjustment or the county auditor in respect of the budget, tax levy, or tax rate of the appellant school corporation be:

- (A) approved; or
 - (B) disapproved and modified;

as specified in the tax control board's recommendation; and

- (2) the appellant school corporation receive emergency

financial relief from the state:

(A) on terms to be specified by the tax control board in the tax control board's recommendation; and

(B) in the form permitted under subsection (g).

(g) The tax control board may recommend emergency financial relief for a school corporation under subsection (f) in the form of:

(1) a grant or grants from any funds of the state that are available for that purpose;

(2) a loan or loans from any funds of the state that are available for that purpose;

(3) permission to the appellant school corporation to borrow funds from a source other than the state or assistance in obtaining the loan;

(4) an advance or advances of funds that will become payable to the appellant school corporation under any law providing for the payment of state funds to school corporations;

(5) permission to the appellant school corporation to:

(A) cancel any unpaid obligation of the appellant school corporation's general fund to the appellant school corporation's capital projects fund; or

(B) use for general fund purposes:

(i) any unobligated balance in the appellant school corporation's capital projects fund; and

(ii) the proceeds of any levy made or to be made by the school corporation for;

the school corporation's capital projects fund;

(6) permission to use, for general fund purposes, any unobligated balance in any debt service or other construction fund, including any unobligated proceeds of a sale of the school corporation's general obligation bonds; or

(7) a combination of the emergency financial relief described in subdivisions (1) through (6).

As added by P.L.2-2006, SEC.168.

IC 20-45-6-3

Recommendation; school with loan or advance from state funds

Sec. 3. (a) This section applies with respect to any school corporation:

(1) to which a loan or advance of state funds is made under section 2 of this chapter; or

(2) for which a loan or an advance is recommended under section 2 of this chapter;

for purposes other than the purpose specified in section 5 or 6 of this chapter.

(b) The tax control board may recommend to the department of local government finance that the school corporation be authorized:

(1) for a specified calendar year; and

(2) solely for the purpose of enabling the school corporation to repay the loan or advance;

to collect an excessive tax levy.

(c) A recommendation under this section must specify the amount of the recommended excessive tax levy.

(d) Upon receiving the recommendation from the tax control board, and without any other proceeding, the department of local government finance may authorize the school corporation for a specified calendar year to make an excessive tax levy in accordance with:

- (1) the recommendation of the tax control board; or
- (2) a modification of the recommendation that the department of local government finance determines is proper.

(e) Whenever the department of local government finance exercises its power under this section, the department of local government finance shall, in the order to the affected school corporation, specify the amount of the authorized excessive tax levy and take appropriate steps to ensure that the proceeds of the excessive tax levy needed for loan repayment purposes are not used for any other purpose.

(f) The department of local government finance may not exercise its power under this section to authorize any school corporation to collect an excessive tax levy for more than one (1) calendar year in any period of four (4) consecutive calendar years.

As added by P.L.2-2006, SEC.168.

IC 20-45-6-4

Controlled school corporation status

Sec. 4. (a) This section does not apply to a school corporation that receives emergency financial relief under:

- (1) section 2(d) of this chapter and IC 20-46-1 (referendum fund levy); or
- (2) section 5 or 6 of this chapter.

(b) This section applies if:

- (1) the tax control board recommends;
- (2) the department of local government finance authorizes; and
- (3) the school corporation accepts;

emergency relief under section 2 of this chapter, including emergency relief in the form of an excessive tax levy.

(c) A school corporation is prohibited throughout any calendar year in which or for which the school corporation receives emergency financial relief from taking any of the prohibited actions described in subsection (d) until the action is:

- (1) recommended by the tax control board to the department of local government finance; and
- (2) authorized by the department of local government finance.

(d) The prohibited actions under subsection (c) are any of the following:

- (1) The acquisition of real estate for school building purposes, the construction of new school buildings, or the remodeling or renovation of existing school buildings.
- (2) The making of a lease of real or personal property for an annual rental or the incurring of any other contractual

obligation (except an employment contract for a new employee, which is to supersede the contract of a terminating employee) calling for an annual outlay by the school corporation that exceeds ten thousand dollars (\$10,000).

(3) The purchase of personal property for a consideration that exceeds ten thousand dollars (\$10,000).

(4) The adoption or advertising of a budget, tax levy, or tax rate for any calendar year.

(e) If a school corporation subject to the controls described in this section takes any of the actions described in subsection (d) without having first obtained:

(1) the recommendation of the tax control board; and

(2) the department of local government finance's authorization; for the action, the department of local government finance may take appropriate steps to reduce or terminate any emergency financial relief that the school corporation may then be receiving under section 2 of this chapter.

As added by P.L.2-2006, SEC.168.

IC 20-45-6-5

Shortfall levy; correction of errors

Sec. 5. (a) This section applies with respect to each appeal petition that:

(1) is delivered to the tax control board by the department of local government finance under IC 6-1.1-19-4.1; and

(2) includes a request for emergency relief to make up a shortfall that has resulted:

(A) whenever:

(i) erroneous assessed valuation figures were provided to the school corporation;

(ii) erroneous figures were used to determine the school corporation's total property tax rate; and

(iii) the school corporation's general fund tax levy was reduced under IC 6-1.1-17-16(d); or

(B) because of the payment of refunds that resulted from appeals under this article and IC 6-1.5.

(b) The tax control board shall recommend to the department of local government finance that the school corporation receive emergency financial relief. The relief must be in any combination of the forms of relief specified in section 2(g) of this chapter.

(c) The tax control board shall, if the tax control board determines that a shortfall exists as described in subsection (a), recommend that a school corporation that appeals for the purpose stated in subsection (a) be permitted to collect an excessive tax levy for a specified calendar year in the amount of the difference between:

(1) the school corporation's property tax levy for a particular year as finally approved by the department of local government finance; and

(2) the school corporation's actual property tax levy for the particular year.

As added by P.L.2-2006, SEC.168.

IC 20-45-6-6

Shortfall levy; mitigation of loss of delinquent taxes or effects of refunds

Sec. 6. (a) This section applies with respect to each appeal petition that:

- (1) is delivered to the tax control board by the department of local government finance under IC 6-1.1-19-4.1;
- (2) includes a request for emergency relief to make up a shortfall that has resulted because of a delinquent property taxpayer; and
- (3) for which the tax control board finds that the balance in the school corporation's levy excess fund plus the property taxes collected for the school corporation is less than ninety-eight percent (98%) of the school corporation's property tax levy for that year, as finally approved by the department of local government finance.

(b) The tax control board may recommend to the department of local government finance that the school corporation receive emergency financial relief in a form specified in section 2(g) of this chapter and be permitted to collect an excessive tax levy for a specified calendar year in the amount of the difference between:

- (1) the school corporation's property tax levy for a particular year, as finally approved by the department of local government finance; and
- (2) the school corporation's actual property tax collections plus any balance in the school corporation's levy excess fund.

As added by P.L.2-2006, SEC.168.

IC 20-45-6-7

Findings and form of recommendation

Sec. 7. A recommendation made by the tax control board under section 5 or 6 of this chapter must specify the amount of the excessive tax levy. The department of local government finance may authorize the school corporation to make an excessive tax levy in accordance with the recommendation without any other proceeding. Whenever the department of local government finance authorizes an excessive tax levy under section 5 or 6 of this chapter, the department of local government finance shall take appropriate steps to ensure that the proceeds of the excessive tax levy are first used to repay any loan authorized under this chapter.

As added by P.L.2-2006, SEC.168.

IC 20-45-6-8

Excessive levy; net financial impact of transfer tuition

Sec. 8. (a) A school corporation may conduct an analysis of that school corporation's:

- (1) total transfer tuition payments actually made or estimated to be made on behalf of students transferring from the school

corporation; and

(2) total revenue actually received or estimated to be received by the school corporation on behalf of students transferring to the school corporation;

to determine the net financial impact of transfer tuition on the particular school corporation for the school year ending in the calendar year immediately preceding the ensuing calendar year or the calendar year that precedes the ensuing calendar year by two (2) years, or both. If the school corporation determines from the analysis that the amount of revenue received by the school corporation under subdivision (2) is less than the amount of transfer tuition payments made by the school corporation under subdivision (1), the school corporation may include the amount attributable to the difference between the subdivision (1) and subdivision (2) amounts in the school corporation's appeal for an excessive tax levy under IC 6-1.1-19. However, a school corporation may not include the amount of a particular deficit in more than one (1) appeal.

(b) A school corporation may appeal to the department of local government finance under IC 6-1.1-19 to increase the school corporation's maximum permissible tuition support levy for the following year by the amount described in subsection (a). Upon the demonstration by the school corporation to the department of local government finance that the amount of transfer tuition payments received by the school corporation under subsection (a)(2) is less than the amount of transfer tuition payments made by the school corporation under subsection (a)(1), the department of local government finance shall grant the increase described in this section.

(c) If a school corporation is granted an increase under this section, the amount attributable to the increase may not be included in the school corporation's:

(1) tuition support levy for the year following the year in which the increase applies; or

(2) determination of state tuition support.

(d) A levy increase described in this section may be based on an estimate of transfer tuition payments paid or received by a school corporation. If the actual difference between the transfer tuition payments made by a school corporation and the transfer tuition payments received by a school corporation for a school year is less than the estimate used to grant a levy increase described in this section, the department of local government finance may reduce the levies imposed by a school corporation by the amount of the overage.

As added by P.L.2-2006, SEC.168.

IC 20-45-6-9

Excessive levy; Jay County

Sec. 9. Notwithstanding the order of the department of local government finance in the matter of the excessive tax levy appeal for emergency financial relief for Jay County School Corporation, the department of local government finance shall grant approval of an excessive tax levy to a school corporation that has requested the

excessive tax levy as a result of an intercept action. The relief shall be granted as an advance of state funds to be paid back to the treasurer of state in two hundred forty (240) payments of:

- (1) thirteen thousand eight hundred eighty-two dollars (\$13,882) beginning on January 15, 2001, and ending May 15, 2003; and
- (2) equal installment amounts beginning June 15, 2003, and ending with final payment on December 31, 2020.

As added by P.L.2-2006, SEC.168.

IC 20-45-6-10

Excessive levy; annexation of township school

Sec. 10. A school corporation that has annexed all or part of any territory of a township school may file a petition of appeal under IC 6-1.1-19 with the department of local government finance for emergency financial relief under IC 20-23-9-4.

As added by P.L.2-2006, SEC.168.